

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

**CARLOS A. GARCIA-PEREZ,
et al.,**

Plaintiffs,

v.

ALVARO SANTAELLA, MD, et al.,

Defendants.

Civil No. 97-1703 (JAG)

PLAINTIFFS' STATEMENT OF UNCONTESTED MATERIAL FACTS

TO THE HONORABLE COURT:

COME NOW the plaintiffs, through the undersigned attorneys, and pursuant to the local rules of this Court, hereby submit their statement of uncontested material facts in support of their motion for partial summary judgment:

1. This action involves claims of medical malpractice in the care of plaintiff quadruplets.
2. The quadruplets were born at the Ashford Presbyterian Community Hospital ("Hospital") on May 6, 1996.
3. María Génesis died on May 8, 1996, at the Hospital.
4. Adriana Marie died on May 13, 1996, at the Hospital.
5. Ana Carolina died on May 21, 1996, at the Hospital.
6. Carla Isabel remained at the Hospital until her transfer to Miami Children's

Hospital on June 21, 1996.

7. The defendant Hospital is insured by defendant American International Insurance Company of Puerto Rico (“AIICO”).

8. The defendant doctors Alvaro Santaella, Adel Vargas, Iván Terón, Amaury Vélez, Alberto de la Vega, and Mildred Quiñones are insured by defendant Sindicato de Aseguradores Para la Suscripción Conjunta de Seguro de Responsabilidad Profesional Médico-Hospitalaria (“SIMED”).

9. The defendant doctor María Casado is insured by PHICO Insurance Company, which is now in liquidation, and is substituted by the Guaranty Association of Miscellaneous Insurance of Puerto Rico.

10. The professional liability policies of each defendant provides a limit of liability for “each medical incident” and also an “aggregate” liability limit. For example, Dr. Adel Vargas’ policy with SIMED provides coverage up to \$100,000.00 for “each medical incident,” and up to \$300,000.00 for the “aggregate.”

11. The SIMED policy distinguishes the two different coverage limits as follows:

The total liability of the Syndicate for all damages because of all injury to which this policy applies shall not exceed the limit of liability stated in the declarations as “aggregate.”

Subject to the above provision with respect to “aggregate,” the total liability of the Syndicate for all damages because of all injury arising out of any one medical incident shall not exceed the limit of liability stated in the declarations as applicable to “each medical incident.”

See page 4 of each SIMED policy.

12. Medical incident is defined as: “Any act or omission ... in the furnishing of professional medical ... services by the Insured. Any such act or omission, together with all related acts or omissions in the furnishing of such services to any one person shall be considered one medical incident.” See page 5 of each SIMED policy. (Emphasis provided.)

13. The AIICO and the PHICO policies provide virtually identical language in their limits of liability and the definition of a medical incident as pertaining to “any one person.” See AIICO policy at p. 7; PHICO policy at pages 8 and 20.

14. The defendants herein did not provide medical services to only one infant, but rather to four individual infants.

Respectfully submitted.

In San Juan, Puerto Rico, this 5th day of April, 2005.

I HEREBY CERTIFY: That I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to Pedro J. Córdova, Esq., P.O. Box 9023998, San Juan, Puerto Rico 00902-3998; Angel R. de Corral-Juliá, Esq., De Corral & De Mier, 130 Eleonor Roosevelt, San Juan, Puerto Rico 00918-3105; Marta E. Vilá-Báez, Esq., Sánchez, Betances & Sifre, P.O. Box 195055, San Juan, Puerto Rico 00919-5055; Roberto Ruiz-Comas, Esq., González Pando Plaza, 1181 Jesús T. Piñeiro Avenue, San Juan, Puerto Rico 00920-5604; José Enrique Otero, Esq., P.O. Box 9023933, San Juan, Puerto Rico 00902-3933; José Héctor Vivas, Esq., Vivas & Vivas, P.O. Box 330951, Ponce, Puerto Rico 00733-0951; Igor J. Domínguez, Esq., 652 Muñoz Rivera Avenue, Suite 3125, Hato Rey, Puerto Rico 00918-4261; Doris Quiñones-Tridas, Esq., 1413 Fernández Juncos, Box 3, San Juan, Puerto Rico 00909; Pedro Toledo-González, Esq., Julio Bogoricin Building, Office L-06, Lobby, 1606 Ponce de León Avenue, Santurce, Puerto Rico 00909; Gilda del C. Cruz Martino, Esq., P.O. Box 9023875, San Juan, Puerto Rico 00902-3875; Jeannette López de Victoria, Esq., Isabel Guillén Bermúdez, Esq., Pinto Lugo, Oliveras & Ortiz, P.O. Box 9024098, San Juan, Puerto Rico 00902-4098.

s/ Joan S. Peters

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